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ABSTRACT

The Juvenile Justice and Delinquency Prevention Act of 1974 provided financial incentives to states to divert and deinstitutionalize status offenders. Recently, criticisms are surfacing that the federal involvement in the status offender issue was inappropriate and had given children the freedom to run away. Concern about victimization of girls seems to be at the core of a shift in federal policy toward delinquents. The existence of "status" or uniquely juvenile offenses poses a distinct threat to young women. More girls than boys are charged with these offenses which include such things as running away from home, being beyond control, or being in need of supervision. A major source of bias is caused by parents' different standards for boys and girls. Girls charged with status offenses are usually more harshly treated than are their male or female counterparts charged with crimes, and female status offenders are overrepresented in institutions. The Delinquency Prevention Act did result in lower incarceration rates for young women, even though they are institutionalized for less serious offenses than are males. Support for the deinstitutionalization provision of the Delinquency Prevention Act from judges and law enforcement agencies has been inadequate. Unless juvenile courts are monitored to prevent further erosion of victories of the deinstitutionalization movement, the jailing of large numbers of young women "for their own protection" is likely to recur. A five-page list of references is provided. (ABL)

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GIRLS AND DE-INSTITUTIONALIZATION:
IS SEXISM AND JUVENILE JUSTICE A DEAD ISSUE

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After decades of almost total neglect, the female delinquent has been in recent years the subject of considerable attention. In the early seventies, allegations of sexism in routine practices of America's juvenile justice system surfaced in a variety of feminist and criminological publications (Chesney-Lind, 1973; Rush, 1973; and Strouse, 1972). Then, in the mid-seventies, the nation was told that the women's movement had inspired a female crime wave (Adler, 1975; Simon, 1975), and the data most persuasive on that point were official data on juvenile girls' crime rate (Chesney-Lind, 1978). At about the same time, the landmark Juvenile Justice and Delinquency Prevention Act of 1974 was passed which provided financial incentives to states which sought to divert and de-institutionalize status offenders. Since many girls are referred to court for these non-criminal offenses, such federal initiatives seemed to mean big changes in the ways girls would be treated.

More recently, the juvenile justice system has been criticized for not having paid sufficient attention to the serious juvenile offender, and criticisms are surfacing about the possibility that the federal involvement in status offender issue was inappropriate at best (National Advisory Committee, 1984) and, at worst, had given children "the freedom to run away" (Office of Juvenile Justice and Delinquency Prevention, 1985). In defense of the latter position, critics of de-institutionalization often cite instances of young girls drawn into prostitution and drug dependency while on the streets. Concern about the victimization of girls is seemingly at the core of a major new

shift in federal policy toward delinquents.

All of these issues related to female delinquency are important, but only one has been the subject of much scholarly attention. The question of whether or not there has been an increase in juvenile female crime, particularly in the area of traditionally masculine crimes as a result of the women's movement, has been extensively discussed and largely disproved (see Steffensmeier and Steffensmeier, 1980; Cernkovich and Giordano, 1979; Chesney-Lind, 1983). Less thoroughly examined has been the impact of feminist allegations of sexism and federal initiatives critical of traditional practices with reference to the treatment of status offenders. This paper, then, will review what has happened to girls who came into the juvenile justice system during the last decade. Specific attention will be directed to a consideration of the impact federal deinstitutionalization and diversion efforts have had on the sexism that has haunted the juvenile justice system since its inception. Also discussed will be the role that a commitment to patriarchal authority has played in the attempts to shift attention away from the rights of status offenders.

GIRLS AND STATUS OFFENSES

It is now somewhat more clearly understood that existence of "status" or uniquely juvenile offenses poses a distinct threat to young women. These offenses allow the arrest of youth for a wide range of behaviors which are not crimes but rather violations of parental authority: "running away from home," "being a person in need of supervision," "minor in need of supervision," being "incorrigible,"

"beyond control," truant, in need of "care and protection", etc.). While these offenses have long been criticized as unconstitutionally vague and over-broad (Katz and Teitelbaum, 1977), their special meaning for young women has received less attention. Yet, an examination of official court populations in Australia (Hancock and Chesney-Lind, 1982), Great Britain (Smith, 1978), Canada (Geller, 1981), Venezuela (Castro, 1981:222) and the United States show that a large proportion of young women arrested and/or referred to court are charged with status offenses. In the U.S., for example, the most recent data (1975-1977) show that 48 percent of the girls in courts, but only 15 percent of the boys are charged with these offense (Black and Smith, 1981). Ten years earlier, about half of girls and about 28 percent of boys were referred to court for these offenses (Children's Bureau, 1965). These data do seem to signal a drop in female status offense referrals, though not a dramatic one.

For many years statistics showing large numbers of girls arrested and referred for status offenses were taken to be representative of the different types of male and female delinquency. However, self-report studies of male and female delinquency do not reflect the dramatic differences in misbehavior found in official statistics. Specifically, it appears that girls charged with these non-criminal status offenses have been and continue to be significantly over represented in court populations.

Teilmann and Landry (1981) compared girls' contribution to arrests for runaway and incorrigible with girls' self-reports of these two activities, and found a 18.4 percent over-representation of females among those arrested for runaway and a 38.9

over-representation in arrests for incorrigibility. From these data they concluded that girls are "arrested for status offenses at a higher rate than boys, when contrasted to their self-reported delinquency rates." (Teilmann and Landry, 1981:74-75). These findings were confirmed in another recent self-report study. Figueria-McDonough (1985) analyzed the delinquent conduct of 2,000 youths and found "no evidence of greater involvement of females in status offenses" (Figueria-McDonough, 1985:277).

The most persuasive argument for such differences between unofficial rates of female delinquency is that juvenile justice system's commitment to the notion of the state as parent have encouraged abuse of the status offense category. The language of status offenses invites, according to one student of the court, "discretionary" application of their provisions and "allows parents, police, and juvenile court authorities, who ordinarily decide whether PINS proceedings should be initiated, to hold girls legally accountable for behavior--often sexual or in some way related to sex--that they would not consider serious if committed by boys" (Sussman, 1977:183).

It is clear that the logic for these offenses, and a commitment to the enforcement of parental authority, are both deeply imbedded in the history of the courts (Platt, 1969; Schlossman and Wallach, 1978). More recently, it has become clear that current juvenile justice personnel are deeply committed to the doctrine of the court as parent and moral guardian (PARENS PATRIAE). Family Court Judges, in particular, resented the limits placed on their power over status offenders and, as this paper will show, lobbied successfully for

significant changes in federal policy during the 1980 hearings to re-authorize the Juvenile Justice and Delinquency Prevention Act.

The resistance of juvenile court judges and other juvenile justice personnel to federal initiatives which placed limitations on their ability to detain and otherwise punish youth charged with these offenses has underscored the commitment of key juvenile court personnel to the court's involvement in the non-criminal behavior of youth. These orientations will also explain many of the seemingly anomalous patterns found in any careful review of the the juvenile justice system's handling of girls during the last decade. This discussion will also provide a vital context within which to consider what the future holds for girls who come into the juvenile justice system.

GIRLS AND PARENTS: BLAMING THE VICTIM

A major source of the bias in juvenile justice is undoubtedly caused by parents. Rosemary Sarri estimates that one third of all girls, but only one tenth of all boys are referred to court by their parents (Flaste, 1977). The importance of the parental role in the initiation of noncriminal complaints is significant. Because parents are likely to possess different standards of obedience for their male and female children and because there are few legal guidelines as to what constitutes a reasonable parental request, parents are able to refer young people to court for a wide variety of activities. Andrews and Cohn (1974) found in their research on PINS processing in New York that these parental concerns run the gamut from serious offenses (like

running away from home) to "sleeping all day" and "refusing to do household chores." More importantly, they found that, despite the trivial nature of some parental complaints, court personnel routinely failed to make independent determinations about the youth's behavior and typically responded to parental wishes (Andrews and Cohn, 1974: 1404).

Another possible and far more disturbing explanation for girls' problems with their parents also deserves attention. There is a growing awareness among those who work with female status offenders that a substantial number are the victims of both physical and sexual abuse. Andrews and Cohn found that 37 percent of the allegedly ungovernable youth in their study were actually "neglected" (Andrews and Cohn, 1974: 1391. A study of females in detention in Washington state found that upwards of 40 percent were victims of physical and/or sexual abuse and that 17 percent were incest victims (National Institute of Mental Health, 1977). Similar figures have been reported by other studies on the backgrounds of young prostitutes and drug offenders (Rush, 1980: 5).

Another sample survey of 192 female youth in the juvenile justice system in Wisconsin (Phelps, et.al., 1982) revealed that 79 percent of the young women (most of whom were in the system for petty larceny and status offenses) had been subjected to physical abuse that resulted in some form of injury. The extent of the injury ranged from such things as bruises, welts, and severe pain, to "being knocked unconscious" (21 percent) or having a broken bone (12 percent). Additionally, 32 percent had been sexually abused by parents or other persons who were closely connected to their families, and 50 percent had been sexually

assaulted ("raped" or forced to participate in sexual acts) (Phelps, et.al., 1982:66).

In depth research on the backgrounds of female status offenders in community programs in Hawaii (Koroki and Chesney-Lind, 1985) suggests that the victimization (both sexual and physical) of young women who find themselves in the juvenile justice system is extensive and is not restricted solely to those in institutional settings. More importantly, the interviews probe how the young women, themselves, felt about their victimization and subsequent relations with the juvenile justice system. Four of the ten girls who were interviewed had been sexually abused and seven had been physically abused at home. All linked the status offenses that brought them to the attention of the court to these problems at home. They were angry that they were being labeled as the criminal. Said one girl, "I ran away so many times. I tried everything man and they wouldn't believe me...As far as they were concerned, they think I'm the problem. You know, runaway, bad label." Another said about her court hearing, "I felt like a criminal. Like I was a damn fool. I was pissed off because I didn't belong there. That wasn't the place for me" (Koroki and Chesney-Lind, 1985:22).

These young women ran away from homes that bear little resemblance to the stereotypical "intact" family, and once on the streets they are forced further into crime in order to survive. The interviews show, very clearly, that they do not have a lot of attachment to their delinquent activities, yet all engaged in illegal acts. Likewise, the Wisconsin study found that 54 percent of the girls who ran away found it necessary to steal money, food for clothing in

order to survive. A few exchanged sexual contact for money, food and/or shelter (Phelps, 1982:67).

Research (Chesney-Lind and Rogriquez, 1983) on the backgrounds of adult women in prison underscores the important links between women's childhood victimizations and their later criminal careers. The interviews revealed that virtually all of this sample were the victims of physical and/or sexual abuse as youngsters; over 60 percent had been sexually abused and about half had been raped as young women. This situation prompted these women to run away from home (three quarters had been arrested for status offenses) where once on the streets they began engaging in prostitution and other forms of petty property crime. They also begin what will become a lifetime problem with drugs. As adults, these women continue in these activities possessing truncated educational backgrounds and virtually no marketable occupational skills.

These findings suggest that the juvenile court's uncritical orientation to parental authority and traditional adolescent sex roles may actually be fueling an increase in adolescent criminal conduct. Certainly, the court does little to protect youth who may have good reason to attempt to live apart from their parents. Young women on the run from homes characterized by sexual abuse and parental neglect are forced, by the very statutes designed to protect them into the life of an escaped convict. Unable to enroll in school or take a job to support themselves because they fear detection, young female runaways are forced into the streets. Here they engage in panhandling, petty theft, and occasional prostitution in order to survive. Young women in conflict with their parents (often for very legitimate reasons) may

actually be forced by present laws into petty criminal activity, prostitution, and drug use.

GETTING TOUGH: GIRLS AND COPS

Arrests of girls and boys for status offenses (runaway and curfew) declined substantially between 1975 and 1984. Arrests of girls for these offenses declined by 36.5 percent (as compared to an 18.7 percent decline in total juvenile female arrests for the period). Arrests of boys for the same offenses declined even more steeply (by 40.3% compared to a 22.9 percent decline in all juvenile male arrests). It should be noted that these decreases occurred during a period that also saw a dramatic demographic decline in this age-group. Between 1975 and 1983, for example, the number of youth aged 5-17 declined by 12.33 percent (U.S. Bureau of the Census, 1985:29).

Status offenses now account for about a 25% of all girls arrests (as compared to 29% in 1975) and only about 7 percent of boys arrests (compared to 8.9 percent in 1975). However, most of this decline occurred in the 1970's. Between 1980 and 1984 girls runaway arrests declined by only 4.9 percent. Indeed, arrests of girls for running away *increased* by nearly 10 percent between 1983 and 1984 (arrests of girls for curfew also increased by 8 percent) (Federal Bureau of Investigation, 1985: 166-171). Taken together, then, recent arrest data indicate that if changes in police handling of non-criminal youth did occur, they were not quite as dramatic as some supposed because they were part of a larger dramatic decline in the over-all number of

youth arrested during the 1970's. More to the point, the decline appears to be over.

But official statistics do not tell the whole story. Studies of police interactions with juveniles provide an important and often neglected perspective on reports of dramatic changes police handling of youth. Police officers make independent decisions about the disposition of juvenile suspects at two separate points: (1) the decision to make an arrest and (2) the decision to refer an arrested juvenile to family court. Particularly important is the former in that research indicates that perhaps between 60-70 percent of police contacts with juveniles on the street were handled informally by the officer (Monahan, 1970:134) and did not result in arrest.

Early studies of police behavior in the field rarely examined the effect of the sex of the suspect on the decision to make an arrest. One exception to this generalization is Monahan's study (1970) of police dispositions of juvenile offenders in Philadelphia. His work revealed that police were more likely to release a young woman than a young man they suspected of a crime, equally likely to apprehend male and females they suspected of running away, and more likely to arrest girls they suspected of sex offenses (Monahan, 1970:139). Other early studies examined police dispositions after arrest (Goldman, 1969; Terry, 1970; McEachern and Bauser, 1967) and while, less specific, also noted some tendency to refer more girls than boys to formal court processing particularly when they were charged with status offenses.

Teilmann and Landry (1980) studied status offender referral patterns in five counties across the United States in 1976 which were starting de-institutionalization programs and found a less consistent

pattern. While they found fairly clear bias against youths charged with status offenses (incorrigibility and running away from home), they did not find that girls charged with these offenses were significantly more likely to be referred to court than boys (though in 6 out of the 10 comparisons, girls were slightly more likely to be referred to court) (Teilmann and Landry, 1981: 39). Teilmann and Landry's work also demonstrated the enormous variability of police referral patterns. In one state studied, for example, nearly three quarters of the males and females who were arrested were referred to court, while in another state less than twenty percent were referred.

More to the point, however, research results on police handling of male and female status offenders does not consistently find evidence of even handedness on the part of the police. Krohn, Curry and Nelson-Kilger (1983), analyzed over 10,000 police contacts in a midwestern, U.S. city over a thirty year time span (1948-1976). Examining police records, the authors concluded that, with reference to status offenses, girls suspected of these offenses were more likely than their male counterparts to be referred to juvenile court for these offenses during all three decades. And, contrary to what they predicted, legal referrals for status offenses show an increase overtime.

Examining the consequences of police contacts with youth suspected of criminal acts (misdemeanors and felonies), they found that while girls suspected of misdemeanors were less likely to be referred to court in the earlier periods, this pattern eroded considerably over the years as more girls were referred to court for these offenses (the pattern was more mixed for felonies) (Krohn, et. al., 1983: 426).

Indeed, by the 1970's, increase in female referrals for misdemeanors was slightly greater than for males. The authors conclude that "part of the apparent increase in female crime may be due to changes in official reactions to female offenders" (Krohn, 1983:417).

More recently, Visser (1983) examined 785 police-suspect encounters during 1977 in twenty four police departments in three geographically separate American communities. She specifically excluded morals offenses (prostitution and drug-related offenses), examining only routine criminal and public order offenses. Scrutinizing many aspects of the arrest situation, Visser concluded that while age was not relevant in police interactions with males, it was for females with younger females receiving harsher treatment than their older counterparts. Visser noted "police officers adopt a more paternalistic and harsher attitude toward young females to deter any further violation of appropriate sex-role behavior" (Visser, 1983: 15). In addition, the girls' demeanor was extremely important factor in whether or not she would be arrested.

It was noted that "those female suspects who violated typical middle-class standards of traditional female characteristics and behaviors (i.e. white, older, and submissive) are not afforded any chivalrous treatment during arrest decisions" (Visser, 1983:22-23). Visser also noted that women suspected of property offenses were actually more harshly treated than their male counterparts. This situation was largely a product of the fact that most of these offenders were typically young and property crimes generally resulted in arrests (in contrast to "minor" crimes of violence).

These findings suggest that substantial amount of the increase in

the arrests of juvenile women for criminal offenses that was observed in the late 1960's and early 1970's could be explained by changes in law enforcement patterns. Additional support for this hypothesis comes from reviews of self-report studies over time which have consistently shown two things. First, girls have always committed offenses that are regarded as traditionally masculine, and second there does not appear to be an increase in this behavior (Steffensmeier and Steffensmeier, 1980). With reference to the historic over-representation of women in court populations charged with status offenses, the data seem to indicate that the police, like parents, have traditionally participated in the double standard of juvenile justice by harshly responding to status offense misbehavior on the part of girls that they would ignore in boys.

For more evidence on this latter point, consider Linda Hancock's (1981) content analysis of police referrals in Australia. She noted that 40 percent of the referrals of girls to court made specific mention of sexual and moral conduct compared to only 5 percent of the referrals of boys. These sorts of results suggest that all youthful female misbehavior has traditionally been subject to surveillance for evidence of sexual misconduct. This sexualization of female deviance is highly significant and explains why criminal activities by girls (particularly in past years) were overlooked and/or excused (see Smith, 1978).

Essentially, these studies suggest that what may be occurring is not so much a change in actual female behavior as an erosion of police "chivalry" in the face of youthful female criminality. Indeed, the specter of a harsher response to such behavior if the girl or woman

does not behave in traditionally female ways appears in at least one study. If this change were accompanied by clear evidence of a marked decrease in the harsh response to the non-criminal misbehavior of girls, this situation might be acceptable. However, while there is some indication that while status offense arrests of young women declined in the mid-seventies, such declines appear to have leveled off. In the face of weakened support for diversion and de-institutionalization efforts, and with little evidence that police have abandoned a de facto commitment to the enforcement of traditional sex roles, increases may well be seen again.

COURTS: OLD WINE IN NEW BOTTLES

Studies examining court processing of girls and boys, particularly those examining early court records, consistently found that because court officials have participated in the double standard of juvenile justice, girls charged with status offenses were often more harshly treated than their male or female counterparts charged with crimes (Cohn, 1970; Chesney-Lind, 1973; Datesman and Scarpatti, 1977; Kratcoski, 1974; Schlossman and Wallach, 1978; Sheldon, 1981). They were certainly more likely to be held for long periods of time in often brutal detention centers, and until recently, they were over-represented, compared to their percentage of arrests, in both training school and detention center populations (Conway and Bogdan, 1977).

The pattern has also appeared in countries other than the United States. Linda Hancock found, in Australia, that females (the majority of whom were appearing in court for uncontrollability and other status offenses) were more likely than males to receive probation or institutional supervision. In addition, she found that those females presented on illegal offense receive lesser penalties than males and females on "protection applications" (Hancock, 1980: 8). In England, May (1977) found that females were less often fined and more often placed on supervision or sent to an institution than males. In another English study, Smart (1976:134) reports that 64 percent of females and 5 percent of males were institutionalized for non-criminal offenses. Castro reports that in Venezuela, girls are more likely than their adult counterparts to find their way into courts because status offenses ("minor in need of supervision") bring in large numbers of young women into the system. Castro comments that such status definitions generate the intervention of juvenile court judges because such categories "are broader and looser than the criteria followed by criminal court judges in the case of adults" (Castro, 1981:222).

However, not all recent research results have confirmed this particular pattern of judicial sexism. Teilmann and Landry (1980), for example, examined court dispositions of youthful offenders in several locations for evidence of gender bias. These authors relied heavily on data drawn from a five state study of services to status offenders. By controlling for "offense type" and prior record, the authors found that "status offenders are consistently given harsher treatment than delinquent offender" but they continued, "this is true for boys as it

is for girls." From this, they concluded that treatment within the court was "relatively even-handed" (Teilmann and Landry, 1981:47). Two other studies Clark and Koch (1988) and Cohen and Kluegel (1979) also found little evidence that female status offenders were more harshly sanctioned than their male counterparts once the effects of a variety of extra-legal and legal variables were accounted for.

Reviewing these studies more closely, however, reveals that some of the variables these studies control for are such things as "detention status" and even, in the case of the Stevens and Koch study, "the child's family structure," "source of referral (whether a police officer or a parent), and support of the family. What may be happening is that these studies are statistically segregating those elements in the juvenile justice system which make women uniquely vulnerable to harsh sanctions, and then concluding there is no evidence of bias against women.

It is known, for example, that girls are over-represented among those charged with status offenses (compared to self-report data). It is also clear that girls are more likely to spend time in detention facilities. Indeed, in evaluating the data presented by Teilmann and Landry, bias against women in the detention decision can be found. By looking at the detention rates for two status offenses (run away and incorrigible) at their five sites, the data show that the proportion of girls who were detained exceeded that of the boys in eight of the ten locations. Finally, the actual number of girls charged with status offenses and detained exceeded males in every site.

But, more to the point, other studies have failed to find evidence that girls and boys charged with status offenses are treated

equally. For example, Mann (1979) examined responses to male and female runaway youth in a Midwestern U. S. court in 1975 and found that girls in the study were more likely than boys charged with runaway or other girls charged with criminal offenses to be held in custody at the time of their hearings. She also found that the court was ordering examinations for venereal disease only for girls, and finally that girls charged with these offenses were more harshly sanctioned.

Boisvert and Wells (1980:232) found a "significant difference" in the types of status complaints brought against males and female in Massachusetts in the mid-seventies. Males, the researchers found, were more likely to be defined as "stubborn children" while females were more likely to be cast as "runaways." Moreover, males were more likely to have engaged in criminal misconduct. Finally, girls were far more likely than boys to be removed from their homes on a first referral to court for status offense: 46.3 percent compared to 17.2 percent (though this pattern eroded with subsequent referrals).

Regardless of how one reads the research, though, the data are clear that the status offense category has historically legitimized a double standard of juvenile justice with large numbers of girls being brought into the juvenile justice system and harshly sanctioned for essentially non-criminal offenses. It remains to review what has happened to this historic pattern during a decade characterized by widespread criticism and review of the juvenile justice system's handling of status offenders.

DE-INSTITUTIONALIZATION AND JUDICIAL PATERNALISM

In the mid-1970s, correctional reformers in many parts of the world who had become concerned about juvenile courts' abuse of the status offense category. In Australia, for example, the 1978 Community Welfare Services Act attempted to remove the more explicitly sexual grounds of some status offenses (notably "exposed to moral danger") and emphasized lack of adequate care, neglect and abandonment. Limitations were also placed on the meaning of "beyond control" to emphasize the need to establish a "substantial and irreconcilable difference" before determining that court intervention was necessary. (Hancock and Chesney-Lind, 1982:182). In Canada, the Province of British Columbia repealed the act permitting incarceration of any youth in training schools in 1969 and actively encouraged the "disuse" of that portion of the Juvenile Delinquents act that dealt with youth found to be "beyond the control of their parents." (Province of British Columbia: 1978, 16-19).

In the United States, the Juvenile Justice and Delinquency Prevention Act of 1974 required that states receiving federal delinquency prevention monies begin to divert and "de-institutionalize" their status offenders. Despite erratic enforcement of this provision, girls were the clear beneficiaries of the reform effort. Incarceration of young women in training schools and detention centers across the country fell dramatically. Between 1974 and 1982, for example, the number of girls admitted to public detention centers in the United States fell by 45 percent with an equally dramatic decrease in female admissions to training schools (Krisberg, et. al., 1985). Encouraging, too, were studies of court

decision-making which found less clear evidence of discrimination against girls in parts of the country where serious diversion efforts were occurring (Moeller, 1982).

However, while there may be some evidence in some parts of the country that girls are receiving more equal treatment, it is still likely that they are being placed in training schools for less serious offenses than their male counterparts. Otherwise, as Rosemary Sarri (1983: 392) has suggested a far steeper decline in the incarceration of female youth in training schools should have been observed. Indeed, Hoffman (1981) noted that nearly half of the girls committed to Oregon's training schools between 1977-1980 were incarcerated for misdemeanors, but only 16 percent of the males were incarcerated for misdemeanors. In contrast, over a third of the males (34.1 percent) but only about a tenth (11.8 percent) of the females were incarcerated for Class A felonies. Another study (Burbeck, 1978) suggests that this may, in fact, be a national pattern. Burbeck's research examined a national sample of adjudicated and committed delinquents. Examining the relationship between severity of sanction and seriousness of offense for which the juvenile was committed, he discovered that, for males, increases in the severity of the commitment offense was associated with an increase in the severity of the sanction. For girls, on the other hand, no correlation was found between commitment offense and severity of sanction. In short, while incarcerations of girls may be declining in the U.S., young women still appear to be incarcerated for far less serious offenses than their male counterparts. Additionally, the sharp declines in female commitments to U.S. training schools that were observed in the 1974-1979 interval

(where a decline of 47.6 percent decline was noted) were not seen in the 1980's. Between 1979-1982, only a 4 percent decline was observed (Krisberg, et. al, 1985:22).

These patterns could be partially explained by research which suggests that because of federal de-institutionalization, the bias against girls may be less overt. Mahoney and Fenster (1982) found, in their courtroom observations, that many of the girls being taken into custody for crimes had actually exhibited behavior which would earlier have been classified as status offenses. Girls who have, for example, broken into their own parents' homes and taken food and clothing to enable them to prolong their runaway status were being charged with burglary (Mahoney and Fenster, 1982: 229).

This reclassification of female status offenders into female criminals has occurred during a period characterized by a "get tough" mood on juvenile crime and some observers (Curran, 1984) suggest that this transition has been particularly hard on female offenders since their behavior was being statistically redefined as criminal at precisely the time that courts were increasingly likely to process these cases formally and punish them more harshly.

Even more discouraging are studies of sexism in diversion and other alternative programs. Alder's analysis (1984) of referral patterns to diversion programs found that women were on the average of 48 percent of the populations in these programs and that more girls than boys are in these programs because of "nonoffense" behavior. More disturbing than these two observations is the fact that many of the referrals of girls to these programs come from outside of the juvenile justice system (Alder, 1984:486). Males, in contrast, were

more likely to be referred by official agencies suggesting the possibility that diversion may be serving different functions based on gender. Alder speculates that for males, the process may be closer to what is implied in the true diversion while for females, diversion programs may represent an expansion of community processes which seek to control the non-criminal defiance young women (Alder, 1984:406). Consistent with this hypothesis, Staples (1980) evaluation of the National Juvenile Restitution Initiative found "that the females being referred to the restitution programs are clearly less serious offenders than their male counterparts."

Margaret Simone's research on group homes in Ohio between 1979-1982 indicated that these facilities may have two standards for dealing with failure; one for boys and one for girls. First, while a clear majority of girls were placed in group homes for status offenses (58 percent) only 18 percent of the younger boys and 38 percent of the older boys were placed in these facilities for non-criminal offenses. Despite girls less serious offense backgrounds, if they "failed" in the program they were significantly more likely to receive a more restrictive placement rather than another "open" placement"; 81 percent of the girls, but only 61 percent of the older boys and 46 percent of the younger boys received such a severe response.

Finally, Geller's research (1981) on the treatment of male and female juvenile offenders referred to a psychiatric clinic in Canada indicates that psychologists may also be participating in the double standard of juvenile justice. Geller reports that male and female offenders were defined very differently by clinic personnel. Specifically, she noted that status offenses and status concern appear

to be equated with self-destructiveness when identified in young women and lead to a very likely outcome of out-of home placement, while they play a minimal part in officials responses to young men. Male delinquency was typically defined as being the anti-social or aggressive acting out of the male in conflict with his society. And while this sounds more serious, she noted that males so labeled were more likely to remain in their own homes, were less likely to be placed in detention and were more likely to receive probation. In general, she found that those who worked with juveniles (both within the clinic and within the Toronto juvenile justice system) tended to identify female offender as being more difficult and as having more problems than males (Geller, 1981: 11) Moreover, many of these problems revolved around the girl's threatened or real sexual activity. In essence, Geller noted a tendency to transform the concrete activities of young women offenders into larger, intangible problems (such as being "self-destructive"). Then, she suggested various officials become frustrated and feel that the girls problems are harder to deal with than those of male offenders.

Another alarming trend and one perhaps related to Geller's findings has recently been identified by Schwartz, Jackson-Beeck, and Anderson (1984). Using records of juveniles institutionalized in mental health and chemical dependency systems in Minnesota, the authors report a "substantial and increasing number of youth placed in what the authors call a "hidden" private juvenile correctional system. These incarcerations (estimated to be 60 percent female) can be made without any legal procedure and without the consent of the girl or boy (since the youth are under age). The cost of the incarceration is born

by third party health care insurance plans.

Taken together these studies suggest that the juvenile justice system has responded to attempts to divert and de-institutionalize status offenders in a less than enthusiastic fashion. There are indications that, in some jurisdictions, re-labelling of girls has occurred. Diversion programs, themselves, may be enforcing a double standard of juvenile justice (in place of or perhaps in addition to the courts). Finally there may have been a medicalization of female delinquency as there has always been the medicalization of adult female defiance. All of these trends notwithstanding, the gains of the de-institutionalization movement are undeniable; dramatic reductions in female incarcerations did occur despite all the problems with implementation. This is a significant victory for all women, but it is, unfortunately, an extremely fragile one. Specifically, the reforms enacted in the past decade are increasingly criticized and, in certain parts of the country, being reversed.

RETHINKING REFORM

Court officials have always been extremely critical of de-institutionalization efforts. Take, for example, the comments of Hunter Hurst, then president of the National Center of Juvenile Justice, in a speech given in 1975 as the JD Act was being implemented:

The issue is that status offenses are offenses against our values. Girls are seemingly over-represented as status offenders because we have a strong heritage of being protective toward females in this country. It offends our sensibility and our values to have a fourteen-year old girl engage in sexually

promiscuous activity. It's not the way we like to think about females in this country. As long as it offends our values, be sure that the police, the church or vigilante groups, or somebody is going to do something about it. For me, I would rather that something occur in the court where the rights of the parties can be protected" (Hurst, 1973:7).

Not surprisingly, then, while there were great hopes when the

Juvenile Justice and Delinquency Prevention Act was passed, a 1978 GAO report (General Accounting Office, 1978) concluded that the Law Enforcement Assistance Administration (the agency given the task of implementing the legislation) was less than enthusiastic about the de-institutionalization provisions of the act. The report reviewed the agency's efforts to remove status offenders from secure facilities and concluded that during certain administrations, the LEAA had actually "downplayed its importance and to some extent discouraged states from carrying out the Federal requirements" (GAO, 1978:10).

The GAO report found monitoring systems to assess states' compliance with the law were lax or non-existent (only 9 states had what the GAO thought were complete data), definitions of what constituted detention and correctional facilities were confused (children in jail, for example, were frequently not counted), and LEAA was apparently reluctant to take action against states which had taken federal monies while failing to implement the de-institutionalization of status offenders.

To be fair, much of this reluctance was a product of the LEAA's recognition that the DSO provisions irritated virtually everyone in the juvenile justice system. Juvenile court judges, the report specifically noted, "often believe that status offenders are just as bad as delinquents and should be treated as such" (GAO, 1981:10).

Just how deep the resentment was became clear a few years later.

During the House Hearings on the extension of the act in March of 1980, Judge John R. Milligan representing the National Council of Juvenile and Family Court Judges argued as follows:

The effect of the Juvenile Justice Act as it now exists is to allow a child ultimately to decide for himself (sic) whether he will go to school, whether he (sic) will live at home, whether he (sic) will continue to run, run, run, away from home, or whether he (sic) will even obey orders of your court (see Juvenile Justice Amendments of 1980).

Ultimately, the judges were successful in narrowing the definition of a status offender in the amended act so that any child who had violated a "valid court order" would no longer be covered under the de-institutionalization provisions of the act (U.S. Statutes, 1981). This change, which was never publicly debated (on either the House or the Senate Hearings) effectively gutted the act by permitting judges to re-classify a status offender who violated a court order to be classified as delinquent. This meant that a young woman who ran away from a court ordered placement (a halfway house, foster home, etc.) could be re-labelled a delinquent and locked up.

Moreover, the National Advisory Committee formed to advise the Office of Juvenile Justice and Delinquency Prevention (and which included Judge Milligan) has just issued a report entitled *Serious Juvenile Crimes: A Redirected Federal Effort* (NAC, 1984) in which it is argued that the federal government should never have gotten involved in the status offender issue. Seeking to "transform the federal effort against delinquency," the report's authors urge federal attention be shifted to "crime committed by the serious, violent or chronic offender" (NAC, 1984:15). Ironically, the report also criticizes the extensive focus on status offenders as discriminatory against minority and poor youth (a position developed by Robert

Woodson while a fellow with the American Enterprise Institute) (U.S. Senate, 1981:410) while never once mentioning the significant role played by de-institutionalization in reducing sexism in juvenile justice.

It is also worth mentioning that in certain parts of the country, changes in routine processing of status offenders were strongly resisted. Juvenile justice by geography is an important factor in the mixed success in curbing the abuses of the status offender category. Regional variations, and specifically initiatives by some jurisdictions to re-institutionalize status offenders, deserve attention. In Hawaii, for example, the Honolulu Police Department initiated an anti-truancy drive which resulted in a dramatic (414 percent) increase in youth arrested for this offense between 1981 and 1983 (Ikeda, Chesney-Lind, and Kameoka, 1985). During the summer of 1983, the department initiated a curfew program. In announcing the program to the media, a police captain explained that he had noticed groups of teen-age girls sitting at certain spots along his jogging route. "You can tell they aren't from here...they are young but not innocent...not the kind we want in Hawaii" (Pressly, 1984). Both this program and the Anti-Truancy Program were initiated while the state was receiving funds from the federal government for de-institutionalization of status offenders, and detention of status offenders during the period increased by 12 percent (the state has since been declared ineligible). Hawaii is not alone; policy makers in Washington, California, Ohio, North Carolina and Florida are also advocating for increased authority to arrest and detain status offenders (Krisberg, et.al., 1985:7). These could be bell weather

states for a new view of the status offender.

This is particularly likely in view of the fact that strong criticism of de-institutionalization has come from the Office of Juvenile Justice and Delinquency Prevention itself. In a recent report, "Runaway Children and the Juvenile Justice and Delinquency Act: What is the Impact" case studies (all involving young girls) purporting to illustrate problems with de-institutionalization were presented in detail. Interviews with police officers and a few youth workers expressing frustration with the law are also presented. One of these will suffice. "The job of getting runaways off the street has been made 'almost impossible' by current law" is the report's summary of an interview with a New York Detective. It continues, "Some of the runaways with whom he maintained regular contact have been at large for several years. Even though he may know where they are and the dangers they face, he is virtually powerless. He may be able to take them off the street for a few hours, but he is unable to stop them when they decide to return" (OJJDP, 1985:7).

In the report's introduction Alfred Regnery, Administrator of the Office of Juvenile Justice and Delinquency Prevention suggests that the blanket application of the de-institutionalization provision has had "darker consequences." Specifically, "running away is legal. The question which needs to be asked is whether or not it is in the best interest of children to afford them such a right" (OJJDP, 1985:2).

It does not take great wit and keen foresight to conclude that those who oppose de-institutionalization are mounting a strong effort to divert federal attention away from status offenders, and, at the same time, suggesting that perhaps the entire effort to

de-institutionalize might have gone too far. And, though girls' victimization is often used to support such a view, a look at the juvenile justice system's treatment of young women in trouble makes it clear that, for girls, such an approach would be a disaster. Judicial sexism has haunted the juvenile justice system since its inception and has survived despite the substantial, though indirect, attempts at reform represented by the JD act of 1974. Unless women's groups begin monitoring their juvenile courts to prevent further erosion of the victories of the de-institutionalization movement, the world is likely to see, once again, the jailing of large numbers of young women "for their own protection."

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